

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CATHERINE TREMBLAY,

Plaintiff,

v.

No. C-07-06009 EDL

ORDER SETTING BRIEFING
SCHEDULE FOR PLAINTIFF'S
MOTION TO CONDITIONALLY
CERTIFY THE COLLECTIVE ACTION

CHEVRON STATIONS, INC.,

Defendant.

The Court has reviewed the parties' briefs filed on February 28, 2008 and March 6, 2008 regarding a briefing schedule for Plaintiff's Motion to Conditionally Certify the Collective Action. The burden, which is not heavy, is on Plaintiff to make a threshold showing to certify a collective action under 29 U.S.C. § 216(b), (*see Castle v. Wells Fargo Fin., Inc.*, 2008 WL 495705 (N.D. Cal. Feb. 20, 2008)), and Plaintiff does not seek additional time to brief this motion. Plaintiff further argues that potential class members will be prejudiced by the continued running of the statute of limitations. Defendant argues that it needs time to conduct discovery to respond to Plaintiff's evidence in favor of conditional certification. However, Defendant does not bear the burden, and in any event has considerable access to evidence involving its own employees.

The Court is not persuaded that extra time is warranted to brief the motion to certify. *See Castle*, 2008 WL 495705, *2, n. 3 ('To resolve the instant motion, the Court need not resolve these factual disputes, and indeed it would be inappropriate.') (citing *In re Coordinated Pretrial Proceedings in Petroleum Prods. Antitrust Litig.*, 691 F.2d 1335, 1342 (9th Cir. 1982) ('Although in determining whether to certify the class [under Rule 23(b)(3)], the district court is bound to take the

1 substantive allegations of the complaint as true, [citations omitted], the court is also required to
2 consider the nature and range of proof necessary to establish those allegations.”)). Accordingly,
3 Plaintiff’s Motion to Conditionally Certify the Collective Action shall be briefed on a regular
4 schedule under Civil Local Rule 7-2.

5 IT IS SO ORDERED.

6 Dated: March 12, 2008

Elizabeth D. Laporte

ELIZABETH D. LAPORTE
United States Magistrate Judge